

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:

**Cogent Energy Services, LLC,
Debtor.**

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**Case No. 23-33659**

## Chapter 7

**Andreina Gamez Rodriguez,**

# Plaintiff

~~~~~

V.

Adv. No. 23-03212

Hector Fuentes, Cogent Energy Services LLC, and Cogent Energy Holdings, LLC, et al.,

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## Defendants/Counter

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## Claimants.

## STATEMENT REGARDING PLAINTIFF'S PENDING MOTIONS

**TO THE HONORABLE JUDGE MARVIN ISGUR:**

At the December 21, 2023 scheduling conference, this Court requested that each of the parties, including Andreina Gamez Rodriguez (“**Plaintiff**”), provide the Court with a statement of pending pleadings that were not ruled upon prior to removal to this Court. Accordingly, Plaintiff provides the following summary of open pleadings:

**I. PLAINTIFF’S SECOND AMENDED MOTION FOR DEFAULT JUDGMENT AS TO COGENT ENERGY SERVICES, LLC AND COGENT ENERGY HOLDINGS, LLC**

### **A. Declaration of Andreina Gamez Rodriguez in Support of Attorney's Fees**

## B. Declaration of David N. Calvillo in Support of Attorney's Fees

**C. Exhibits**

1. Proof of Service on Defendant Cogent Energy Services, LLC
2. Proof of Service on Defendant Cogent Energy Holdings, LLC
3. Certificate of Last Known Address of Defendant Cogent Energy Holdings, LLC
4. Certificate of Last Known Address of Defendant Cogent Energy Services, LLC

**Statement:** No response filed to this motion.

**II. PLAINTIFF'S PARTIAL MOTION FOR SUMMARY JUDGMENT THAT HECTOR FUENTES IS A CONTROL PERSON UNDER THE TEXAS SECURITIES ACT<sup>1</sup>**

**A. Exhibits**

1. Third Amended Company Agreement
2. 2018 Franchise Tax Public Information Report
3. Cogent Capital Infusions
4. Emails involving Hector Fuentes regarding investment into Cogent
5. Affidavit of Andreina Gamez Rodriguez
6. Emails from Chet Erwin and David Gutierrez to Plaintiff
7. Cash Receipt signed by Hector Fuentes
8. Memorandum of Understanding between Cogent and Plaintiff
9. Email from David Gutierrez to Plaintiff dated May 20, 2019
10. Minutes of Special Meeting of the Board of Directors on Resolution to Approve New Investment
11. 5/31/19 Wire Transfer
12. Email from Gutierrez to Plaintiff dated June 12, 2019
13. 2019 K-1s
14. Email from Tammy Benavidez to Diana Singson dated October 28, 2019
15. Email from Diana Singson to Cogent Employees dated October 28, 2019
16. Memo to Chet Erwin & David Gutierrez from Fuentes
17. 2019 Financial Projections
18. Compromise Settlement and Forbearance Agreement with Ventex
19. Agreed Final Judgment with Kirby-Smith Machinery, Inc.
20. Fuentes' Responses to Plaintiff's Interrogatories
21. Email from Hector Fuentes to Chet Erwin dated August 13, 2019

**Statement:** The following responsive pleadings were filed:

**i. RESPONSE OF FUENTES AND CHRISMAN TO PLAINTIFF'S PARTIAL MOTION FOR SUMMARY JUDGMENT**

**A. Declaration of Armando Lozano in Support of Fuentes's and Chrisman's**

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<sup>1</sup> This motion was inadvertently not included within the Rule 26(f) report filed with the Court.

Response to Plaintiff's Motion for Partial Summary Judgment

**B. Exhibits**

1. Memorandum of Understanding between Cogent and Plaintiff
2. Affidavit of Hector Fuentes on Behalf of Himself and Chrisman
3. March 28, 2023, Hearing Transcript
4. Plaintiff's First Amended Responses and Objections to Defendant Hector Fuentes's Request for Production and Interrogatories

**ii. PLAINTIFF'S REPLY TO DEFENDANTS' RESPONSE TO MOTIONS FOR PARTIAL SUMMARY JUDGMENT**

**III. PLAINTIFF'S PARTIAL MOTION FOR SUMMARY JUDGMENT THAT CHRISMAN IS A CONTROL PERSON UNDER THE TEXAS SECURITIES ACT**

**A. Exhibits**

1. Third Amended Company Agreement
2. 2018 Exhibit Franchise Tax Public Information Report
3. Cogent Capital Infusions
4. Emails involving Hector Fuentes regarding investment into Cogent
5. Affidavit of Andreina Gamez Rodriguez
6. Emails from Chet Erwin and David Gutierrez to Plaintiff
7. Cash Receipt signed by Hector Fuentes
8. Memorandum of Understanding between Cogent and Plaintiff
9. Email from David Gutierrez to Plaintiff dated May 20, 2019
10. Minutes of Special Meeting of the Board of Directors on Resolution to Approve New Investment
11. 5/31/19 Wire Transfer
12. Email from Gutierrez to Plaintiff dated June 12, 2019
13. 2019 K-1s
14. Email from Tammy Benavidez to Diana Singson dated October 28, 2019
15. Email from Diana Singson to Cogent Employees dated October 28, 2019
16. Memo to Chet Erwin & David Gutierrez from Fuentes
17. 2019 Financial Projections
18. Compromise Settlement and Forbearance Agreement with Ventex
19. Agreed Final Judgment with Kirby-Smith Machinery, Inc.
20. Chrismans' Responses to Plaintiff's Interrogatories
21. Email from Hector Fuentes to Chet Erwin dated August 13, 2019

**Statement:** The following responsive pleadings were filed:

**i. RESPONSE OF FUENTES AND CHRISMAN TO PLAINTIFF'S PARTIAL**

**MOTION FOR SUMMARY JUDGMENT**

**A.** Declaration of Armando Lozano in Support of Fuentes's and Chrisman's Response to Plaintiff's Motion for Partial Summary Judgment

**B.** Exhibits

1. Memorandum of Understanding between Cogent and Plaintiff
2. Affidavit of Hector Fuentes on Behalf of Himself and Chrisman
3. March 28, 2023, Hearing Transcript
4. Plaintiff's First Amended Responses and Objections to Defendant Hector Fuentes's Request for Production and Interrogatories

**ii. PLAINTIFF'S REPLY TO DEFENDANTS' RESPONSE TO MOTIONS FOR PARTIAL SUMMARY JUDGMENT**

**IV. PLAINTIFF'S PARTIAL MOTION FOR SUMMARY JUDGMENT THAT CHET ERWIN IS A CONTROL PERSON UNDER THE TEXAS SECURITIES ACT**

**A. Exhibits**

1. Third Amended Company Agreement
2. 2018 Franchise Tax Public Information Report
3. Cogent Capital Infusions
4. Emails involving Hector Fuentes regarding investment into Cogent
5. Affidavit of Andreina Gamez Rodriguez
6. Emails from Chet Erwin and David Gutierrez to Plaintiff
7. Cash Receipt signed by Hector Fuentes
8. Memorandum of Understanding between Cogent and Plaintiff
9. Email from David Gutierrez to Plaintiff dated May 20, 2019
10. Minutes of Special Meeting of the Board of Directors on Resolution to Approve New Investment
11. 5/31/19 Wire Transfer
12. Email from Gutierrez to Plaintiff dated June 12, 2019
13. 2019 K-1s
14. Email from Tammy Benavidez to Diana Singson dated October 28, 2019
15. Email from Diana Singson to Cogent Employees dated October 28, 2019
16. Memo to Chet Erwin & David Gutierrez from Fuentes
17. 2019 Financial Projections
18. Compromise Settlement and Forbearance Agreement with Ventex
19. Agreed Final Judgment with Kirby-Smith Machinery, Inc.
20. Erwin's Responses to Plaintiff's Interrogatories
21. Email from Hector Fuentes to Chet Erwin dated August 13, 2019

**Statement:** The following responsive pleadings were filed:

**i. CHARLES ERWIN'S RESPONSE TO PLAINTIFF'S MOTION FOR**

**PARTIAL SUMMARY JUDGMENT**

**A. Exhibits**

1. Declaration of Charles Erwin
2. Memorandum of Understanding between Cogent and Plaintiff
- ii. **PLAINTIFF'S REPLY TO DEFENDANTS' RESPONSE TO MOTIONS FOR PARTIAL SUMMARY JUDGMENT**

**V. PLAINTIFF'S PARTIAL MOTION FOR SUMMARY JUDGMENT THAT CE PARTNERSHIP IS A CONTROL PERSON UNDER THE TEXAS SECURITIES ACT**

**A. Exhibits**

1. Third Amended Company Agreement
2. 2018 Franchise Tax Public Information Report
3. Cogent Capital Infusions
4. Emails involving Hector Fuentes regarding investment into Cogent
5. Affidavit of Andreina Gamez Rodriguez
6. Emails from Chet Erwin and David Gutierrez to Plaintiff
7. Cash Receipt signed by Hector Fuentes
8. Memorandum of Understanding between Cogent and Plaintiff
9. Email from David Gutierrez to Plaintiff dated May 20, 2019
10. Minutes of Special Meeting of the Board of Directors on Resolution to Approve New Investment
11. 5/31/19 Wire Transfer
12. Email from Gutierrez to Plaintiff dated June 12, 2019
13. 2019 K-1s
14. Email from Tammy Benavidez to Diana Singson dated October 28, 2019
15. Email from Diana Singson to Cogent Employees dated October 28, 2019
16. Memo to Chet Erwin & David Gutierrez from Fuentes
17. 2019 Financial Projections
18. Compromise Settlement and Forbearance Agreement with Ventex
19. Agreed Final Judgment with Kirby-Smith Machinery, Inc.

**Statement:** No response filed to this motion.

**VI. PLAINTIFF'S MOTION TO QUASH THE DEPOSITION NOTICE OF FRIBOURG**

**A. Exhibits**

1. Defendant (sic) Hector Fuentes and Clarence Nelson Drake's Notice of Oral Deposition of Fribourg Consultant Group
2. Agreed Scheduling and Docket Control Order

**Statement:** The following responsive pleadings were filed:

**i. FUENTES DEFENDANTS’ SECOND MOTION TO COMPEL DOCUMENTS AND MOTION TO COMPEL DEPOSITION OF FRIBOURG’S CORPORATE REPRESENTATIVES**

**A. Exhibits**

1. Transcript of deposition of Andreina Gamez Rodriguez taken July 18, 2023 (excerpted)
2. Letter to Mr. Volluz from Fribourg Consultant Corp. authorizing bank transfer, dated June 19, 2019
3. Declaration of Andreina Gamez Rodriguez, dated July 28, 2023
4. In the High Court of New Zealand, Hamilton Registry, Commissioner of Police
5. v. Andreina Gamez Rodriguez, et al; Judgment of Paul Davison J, dated November 30, 2022
6. Hearing Transcript, September 5, 2023
7. Plaintiff Andreina Gamez Rodriguez’s Amended Responses to Defendant Hector Fuentes’ Third Requests for Production, dated September 15, 2023
8. Defendant Hector Fuentes and Clarence Nelson Drake’s Notice of Oral Deposition of Fribourg Consultant Corp., dated September 16, 2023
9. Grupo Constech, “Construccion y Tecnologia para el Futuro” presentation
10. U.S. District Court, United States of America v. Luis Carlos de Leon-Perez; Judgment in a Criminal Case, entered August 11, 2023
11. U.S. District Court, United States of America v. Luis Carlos de Leon-Perez; General Allegations, dated July 13, 2018
12. U.S. District Court, United States of America v. Luis Carlos de Leon-Perez; General Allegations, dated July 13, 2018
13. U.S. District Court, United States of America v. Luis Carlos de Leon-Perez; Transcript of Detention and Motion Hearing, April 10, 2018
14. U.S. District Court, United States of America v. Luis Carlos de Leon-Perez; Certificate of Service of Preliminary Order of Forfeiture, dated September 15, 2023
15. Plaintiff Andreina Gamez Rodriguez’s Responses to Defendant Hector Fuentes’ Third Requests for Production, dated August 22, 2023
16. Fribourg Consulting Group, Resumen de los Activos, dated June 30, 2019
17. Transcript of deposition of Luis Carlos de Leon-Perez taken August 23, 2023 (excerpted)

**ii. PLAINTIFF’S OBJECTION AND RESPONSE TO FUENTES DEFENDANTS’ SECOND MOTION TO COMPEL DOCUMENTS AND MOTION TO COMPEL DEPOSITION OF FRIBOURG CONSULTANT CORPORATION (ECF No. 22)**

**A. Exhibits**

1. Second Motion to Compel Documents and Motion to Compel Deposition of Fribourg Consultant Corporation, dated September 20, 2023
2. Hearing Transcript, September 5, 2023

**VII. PLAINTIFF'S MOTION TO REOPEN DISCOVERY (ECF No. 37)**

**Statement:** The following responsive pleadings were filed:

- i. OPPOSITION OBJECTION TO PLAINTIFF'S MOTION TO REOPEN DISCOVERY (RELATED DOCUMENT(S):37 GENERIC MOTION). FILED BY CHRISMAN ACQUISITION LLC, NELSON DRAKE, HECTOR FUENTES, LINDSAYCA INC. (ECF No. 42)

Dated: January 16, 2024

Respectfully submitted,

**CHAMBERLAIN, HRDLICKA, WHITE,  
WILLIAMS & AUGHTRY, P.C.**

By: /s/ David N. Calvillo

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**CERTIFICATE OF SERVICE**

I certify that on January 16, 2024, I caused a copy of the foregoing Motion to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas, including the following parties:

SUSMAN GODFREY L.L.P.

William R. H. Merrill

Daniel Wilson

Armando Lozano

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*/s/ David N. Calvillo*

David N. Calvillo